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*Attorneys for Plaintiff Ron Sager*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RON SAGER, individually and on behalf of a  
class of similarly situated individuals,

Plaintiff,

vs.

BANK OF AMERICA CORPORATION, a  
Delaware corporation, SOUNDBITE  
COMMUNICATIONS, INC., a Delaware  
corporation,

Defendants.

Case No. 5:12-cv-00197-RMW

**JOINT STIPULATION AND [PROPOSED]  
ORDER FOR DISMISSAL**

CLASS ACTION

Complaint Filed: January 11, 2012

The Honorable Ronald M. Whyte

Plaintiff Ron Sager ("Plaintiff") and Defendants Bank of America Corporation ("Bank of America") and SoundBite Communications, Inc. ("SoundBite") (together, "Defendants") pursuant to Civil Local Rule 7-12 and Federal Rule of Civil Procedure 41(a) hereby stipulate as follows:

1. On January 11, 2012, Plaintiff filed his Class Action Complaint against Defendants.
2. On February 16, 2012, SoundBite filed a petition with the Federal Communications Commission ("FCC") seeking a declaratory ruling that when a subscriber sends a text message choosing to opt-out of receiving future text messages, and a one-time immediate reply is sent back

1 via text message confirming the opt-out request, that confirmation message is not a violation of the  
2 Telephone Consumer Protection Action (“TCPA”).

3 3. On August 8, 2012, pursuant to stipulation by the Parties, the Court entered an Order  
4 staying this matter until the FCC ruled on SoundBite’s pending petition. (Dkt. 42.)

5 4. Pursuant to the Court’s August 8 Order, the Parties were to inform the Court of the  
6 FCC’s ruling within 15 days of such ruling. (Dkt. 42.)

7 5. On November 29, 2012, the FCC ruled on SoundBite’s petition, granting SoundBite’s  
8 request for declaratory ruling, and finding that, with exceptions, “confirmatory” text messages do not  
9 violate the TCPA.

10 6. The Parties agree that this matter should now be dismissed.

11 NOW, THEREFORE, the Parties hereby stipulate and agree that, pursuant to Rule 41(a) of  
12 the Federal Rules of Civil Procedure, this entire action shall be, and is, dismissed, with each party to  
13 bear its own fees and costs.

14 IT IS SO STIPULATED.

15 Dated: December 10, 2012

EDELSON MCGUIRE, LLP

SEAN P. REIS

17 /s/ Sean P. Reis

Sean P. Reis

18 *Attorneys for Plaintiff Ron Sager*

20 Dated: December 10, 2012

REED SMITH LLP

FELICIA YU

22 /s/ Felicia Yu

Felicia Yu

23 *Attorneys for Defendant*

24 *Bank of America Corporation*

1 Dated: December 10, 2012

COOLEY LLP

2 MAZDA K. ANTIA

3 /s/ Mazda K. Antia

Mazda K. Antia

4 *Attorneys for Defendant*

5 *SoundBite Communications, Inc.*

6 PURSUANT TO STIPULATION, IT IS SO ORDERED.

7 Dated: December \_\_, 2012

8  
9  
10 Hon. Ronald M. Whyte

United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on December 10, 2012, I served the foregoing *Joint Stipulation and [Proposed] Order for Dismissal* by causing true and accurate copies of such paper to be filed and transmitted to counsel of record via the Court's CM/ECF electronic filing system.

December 10, 2012

/s/ Sean P. Reis  
Sean P. Reis